



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0203/P/3
RCT&MES:cjs/rs

In 10/5

stays 1mr

DOA:.....Miner, BB0112 - Change farmland preservation program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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D. Not Gen

- 1 AN ACT...; relating to: farmland preservation, the farmland preservation tax
2 credit, the farmland tax relief credit, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 20.115 (7) (dm) of the statutes is created to read:
4 20.115 (7) (dm) *Farmland preservation planning grants*. As a continuing
5 appropriation, the amounts in the schedule for farmland preservation planning
6 grants under s. 91.10 (6). No moneys may be encumbered under this paragraph after
7 June 30, 2016.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

- 8 SECTION 2. 20.115 (7) (dr) of the statutes is created to read:

1 20.115 (7) (dr) *Agricultural enterprise area petition grants*. As a continuing
2 appropriation, the amounts in the schedule for grants under s. 91.88 for preparing
3 petitions requesting the designation of agricultural enterprise area. No moneys may
4 be encumbered under this paragraph after June 30, 2012.

 ***NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 3.** 20.835 (2) (d) of the statutes is repealed.

 ***NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

6 **SECTION 4.** 23.094 (2) (c) 3. of the statutes is repealed.

7 **SECTION 5.** 66.0721 (1) (b) of the statutes is amended to read:

8 66.0721 (1) (b) "Eligible farmland" means a parcel of 35 or more acres of
9 contiguous land which is devoted exclusively to agricultural use which during the
10 year preceding the year in which the land is subject to a special assessment under
11 this section produced gross farm profits, as defined in s. ~~71.58 (4)~~ 71.613 (1) (g), of
12 not less than \$6,000 or which, during the 3 years preceding the year in which the land
13 is subject to a special assessment under this section, produced gross farm profits, as
14 defined in s. ~~71.58 (4)~~ 71.613 (1) (g), of not less than \$18,000.

15 **SECTION 6.** 71.07 (2fd) of the statutes is repealed.

16 **SECTION 7.** 71.07 (3m) (a) 3. of the statutes is amended to read:

17 71.07 (**3m**) (a) 3. "Farmland" means 35 or more acres of real property, exclusive
18 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007
19 stats., and owned by the claimant or any member of the claimant's household during
20 the taxable year for which a credit under this subsection is claimed if the farm of
21 which the farmland is a part, during that year, produced not less than \$6,000 in gross
22 farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or

1 if the farm of which the farmland is a part, during that year and the 2 years
2 immediately preceding that year, produced not less than \$18,000 in such profits, or
3 if at least 35 acres of the farmland, during all or part of that year, was enrolled in the
4 conservation reserve program under 16 USC 3831 to 3836.

5 **SECTION 8.** 71.07 (3m) (a) 4. of the statutes is amended to read:

6 71.07 (3m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,
7 from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market
8 value at the time of disposition of payments in kind for placing land in federal
9 programs or payments from the federal dairy termination program under 7 USC
10 1446 (d), less the cost or other basis of livestock or other items purchased for resale
11 which are sold or otherwise disposed of during the taxable year.

12 **SECTION 9.** 71.07 (3m) (e) of the statutes is created to read:

13 71.07 (3m) (e) *Sunset*. No new claim may be filed under this subsection for a
14 taxable year that begins after December 31, 2009.

15 **SECTION 10.** 71.08 (1) (intro.) of the statutes is amended to read:

16 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
17 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
18 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), ~~(2fd)~~, (3m), (3n), (3p),
19 (3s), (3t), (3w), (5b), (5d), (5e), (5f), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj),
20 (1dL), (1ds), (1dx), ~~(1fd)~~, (2m), (3), (3n), (3t), and (3w), ~~and~~ 71.47 (1dd), (1de), (1di),
21 (1dj), (1dL), (1ds), (1dx), ~~(1fd)~~, (2m), (3), (3n), (3t), and (3w), and ~~subchs. 71.57 to~~
22 71.61 and subch. VIII and IX and payments to other states under s. 71.07 (7), is less
23 than the tax under this section, there is imposed on that natural person, married
24 couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
25 minimum tax computed as follows:

1 **SECTION 11.** 71.10 (4) (de) of the statutes is created to read:

2 71.10 (4) (de) The farmland preservation credit under s. 71.613.

3 **SECTION 12.** 71.10 (4) (i) of the statutes is amended to read:

4 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
5 preservation credit under ~~subch. IX ss. 71.57 to 71.61~~, homestead credit under subch.
6 VIII, farmland tax relief credit under s. 71.07 (3m), ~~farmers' drought property tax~~
7 ~~credit under s. 71.07 (2fd)~~, dairy manufacturing facility investment credit under s.
8 71.07 (3p), film production services credit under s. 71.07 (5f) (b) 2., veterans and
9 surviving spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit
10 under s. 71.07 (3w), earned income tax credit under s. 71.07 (9e), estimated tax
11 payments under s. 71.09, and taxes withheld under subch. X.

12 **SECTION 13.** 71.28 (1fd) of the statutes is repealed.

13 **SECTION 14.** 71.28 (2m) (a) 3. of the statutes is amended to read:
Insert
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14 71.28 (2m) (a) 3. "Farmland" means 35 or more acres of real property, exclusive
15 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007
16 stats., and owned by the claimant or any member of the claimant's household during
17 the taxable year for which a credit under this subsection is claimed if the farm of
18 which the farmland is a part, during that year, produced not less than \$6,000 in gross
19 farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or
20 if the farm of which the farmland is a part, during that year and the 2 years
21 immediately preceding that year, produced not less than \$18,000 in such profits, or
22 if at least 35 acres of the farmland, during all or part of that year, was enrolled in the
23 conservation reserve program under 16 USC 3831 to 3836.

24 **SECTION 15.** 71.28 (2m) (a) 4. of the statutes is amended to read:

1 71.28 (2m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,
2 from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market
3 value at the time of disposition of payments in kind for placing land in federal
4 programs or payments from the federal dairy termination program under 7 USC
5 1446 (d), less the cost or other basis of livestock or other items purchased for resale
6 which are sold or otherwise disposed of during the taxable year.

7 **SECTION 16.** 71.28 (2m) (e) of the statutes is created to read:

8 71.28 (2m) (e) *Sunset.* No new claim may be filed under this subsection for a
9 taxable year that begins after December 31, 2009.

10 **SECTION 17.** 71.30 (3) (f) of the statutes is amended to read:

11 71.30 (3) (f) The total of ~~farmers' drought property tax credit under s. 71.28~~
12 ~~(1fd)~~, farmland preservation credit under subch. IX, farmland tax relief credit under
13 s. 71.28 (2m), dairy manufacturing facility investment credit under s. 71.28 (3p),
14 enterprise zone jobs credit under s. 71.28 (3w), film production services credit under
15 s. 71.28 (5f) (b) 2., and estimated tax payments under s. 71.29.

16 **SECTION 18.** 71.47 (1fd) of the statutes is repealed.

17 **SECTION 19.** 71.47 (2m) (a) 3. of the statutes is amended to read:

18 71.47 (2m) (a) 3. "Farmland" means 35 or more acres of real property, exclusive
19 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007
20 stats., and owned by the claimant or any member of the claimant's household during
21 the taxable year for which a credit under this subsection is claimed if the farm of
22 which the farmland is a part, during that year, produced not less than \$6,000 in gross
23 farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or
24 if the farm of which the farmland is a part, during that year and the 2 years
25 immediately preceding that year, produced not less than \$18,000 in such profits, or

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1 if at least 35 acres of the farmland, during all or part of that year, was enrolled in the
2 conservation reserve program under 16 USC 3831 to 3836.

3 **SECTION 20.** 71.47 (2m) (a) 4. of the statutes is amended to read:

4 71.47 (2m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,
5 from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market
6 value at the time of disposition of payments in kind for placing land in federal
7 programs or payments from the federal dairy termination program under 7 USC
8 1446 (d), less the cost or other basis of livestock or other items purchased for resale
9 which are sold or otherwise disposed of during the taxable year.

10 **SECTION 21.** 71.47 (2m) (e) of the statutes is created to read:

11 71.47 (2m) (e) *Sunset.* No new claim may be filed under this subsection for a
12 taxable year that begins after December 31, 2009.

13 **SECTION 22.** 71.49 (1) (f) of the statutes is amended to read:

14 71.49 (1) (f) The total of ~~farmers' drought property tax credit under s. 71.47~~
15 ~~(1fd)~~, farmland preservation credit under subch. IX, farmland tax relief credit under
16 s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p),
17 enterprise zone jobs credit under s. 71.47 (3w), film production services credit under
18 s. 71.47 (5f) (b) 2., and estimated tax payments under s. 71.48.

19 **SECTION 23.** 71.57 of the statutes is amended to read:

20 **71.57 Purpose.** The purpose of ~~this subchapter ss. 71.58 to 71.61~~ is to provide
21 credit to owners of farmland which is subject to agricultural use restrictions, through
22 a system of income or franchise tax credits and refunds and appropriations from the
23 general fund.

24 **SECTION 24.** 71.58 (intro.) of the statutes is amended to read:

25 **71.58 Definitions.** (intro.) In ~~this subchapter ss. 71.57 to 71.61~~:

1 **SECTION 25.** 71.58 (1) (intro.) of the statutes is amended to read:

2 71.58 (1) (intro.) "Claimant" means an owner of farmland, as defined in s. 91.01
3 (9), 2007 stats., domiciled in this state during the entire year for which a credit under
4 ~~this subchapter ss. 71.57 to 71.61~~ is claimed, except as follows:

5 **SECTION 26.** 71.58 (1) (b) of the statutes is amended to read:

6 71.58 (1) (b) If any person in a household has claimed or will claim credit under
7 subch. VIII, all persons from that household are ineligible to claim any credit under
8 ~~this subchapter ss. 71.57 to 71.61~~ for the year to which the credit under subch. VIII
9 pertained.

 ****NOTE: Do you want to apply this limitation to the credit under s. 71.613?

10 **SECTION 27.** 71.58 (1) (d) of the statutes is amended to read:

11 71.58 (1) (d) For purposes of filing a claim under ~~this subchapter ss. 71.57 to~~
12 71.61, the personal representative of an estate and the trustee of a trust shall be
13 deemed owners of farmland. "Claimant" does not include the estate of a person who
14 is a nonresident of this state on the person's date of death, a trust created by a
15 nonresident person, a trust which receives Wisconsin real property from a
16 nonresident person or a trust in which a nonresident settlor retains a beneficial
17 interest.

18 **SECTION 28.** 71.58 (1) (e) of the statutes is amended to read:

19 71.58 (1) (e) For purposes of filing a claim under ~~this subchapter ss. 71.57 to~~
20 71.61, when land is subject to a land contract, the claimant shall be the vendee under
21 the contract.

22 **SECTION 29.** 71.58 (1) (f) of the statutes is amended to read:

1 71.58 (1) (f) For purposes of filing a claim under ~~this subchapter ss. 71.57 to~~
2 71.61, when a guardian has been appointed in this state for a ward who owns the
3 farmland, the claimant shall be the guardian on behalf of the ward.

4 **SECTION 30.** 71.58 (3) of the statutes is amended to read:

5 71.58 (3) "Farmland" means 35 or more acres of real property in this state
6 owned by the claimant or any member of the claimant's household during the taxable
7 year for which a credit under ~~this subchapter ss. 71.57 to 71.61~~ is claimed if the
8 farmland, during that year, produced not less than \$6,000 in gross farm profits
9 resulting from the farmland's agricultural use, as defined in s. 91.01 (1), 2007 stats.,
10 or if the farmland, during that year and the 2 years immediately preceding that year,
11 produced not less than \$18,000 in such profits, or if at least 35 acres of the farmland,
12 during all or part of that year, was enrolled in the conservation reserve program
13 under 16 USC 3831 to 3836.

14 **SECTION 31.** 71.58 (8) of the statutes is amended to read:

15 71.58 (8) "Property taxes accrued" means property taxes, exclusive of special
16 assessments, delinquent interest and charges for service, levied on the farmland and
17 improvements owned by the claimant or any member of the claimant's household in
18 any calendar year under ch. 70, less the tax credit, if any, afforded in respect of the
19 property by s. 79.10. "Property taxes accrued" shall not exceed \$6,000. If farmland
20 is owned by a tax-option corporation, a limited liability company or by 2 or more
21 persons or entities as joint tenants, tenants in common or partners or is marital
22 property or survivorship marital property and one or more such persons, entities or
23 owners is not a member of the claimant's household, "property taxes accrued" is that
24 part of property taxes levied on the farmland, reduced by the tax credit under s.
25 79.10, that reflects the ownership percentage of the claimant and the claimant's

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→

1 household. For purposes of this subsection, property taxes are “levied” when the tax
2 roll is delivered to the local treasurer for collection. If farmland is sold during the
3 calendar year of the levy the “property taxes accrued” for the seller is the amount of
4 the tax levy, reduced by the tax credit under s. 79.10, prorated to each in the closing
5 agreement pertaining to the sale of the farmland, except that if the seller does not
6 reimburse the buyer for any part of those property taxes there are no “property taxes
7 accrued” for the seller, and the “property taxes accrued” for the buyer is the property
8 taxes levied on the farmland, reduced by the tax credit under s. 79.10, minus, if the
9 seller reimburses the buyer for part of the property taxes, the amount prorated to the
10 seller in the closing agreement. With the claim for credit under ~~this subchapter ss.~~
11 71.57 to 71.61, the seller shall submit a copy of the closing agreement and the buyer
12 shall submit a copy of the closing agreement and a copy of the property tax bill.

13 **SECTION 32.** 71.59 (1) (a) of the statutes is amended to read:

14 71.59 (1) (a) Subject to the limitations provided in ~~this subchapter ss. 71.57 to~~
15 71.61 and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin
16 income or franchise taxes otherwise due, the amount derived under s. 71.60. If the
17 allowable amount of claim exceeds the income or franchise taxes otherwise due on
18 or measured by the claimant’s income or if there are no Wisconsin income or franchise
19 taxes due on or measured by the claimant’s income, the amount of the claim not used
20 as an offset against income or franchise taxes shall be certified to the department of
21 administration for payment to the claimant by check, share draft or other draft
22 drawn on the general fund.

23 **SECTION 33.** 71.59 (1) (b) (intro.) of the statutes is amended to read:

1 71.59 (1) (b) (intro.) Every claimant under ~~this subchapter~~ ss. 71.57 to 71.61
2 shall supply, at the request of the department, in support of the claim, all of the
3 following:

4 **SECTION 34.** 71.59 (1) (b) 4. of the statutes is amended to read:

5 71.59 (1) (b) 4. Certification by the claimant that each county land conservation
6 committee with jurisdiction over the farmland has been notified that the claimant
7 intends to submit a claim under ~~this subchapter~~ ss. 71.57 to 71.61.

Insert 10-7 → 8 **SECTION 35.** 71.59 (2) (intro.) of the statutes is amended to read:

9 71.59 (2) INELIGIBLE CLAIMS. (intro.) No credit shall be allowed under this
10 subchapter ss. 71.57 to 71.61:

Insert 10-10 → 11 **SECTION 36.** 71.59 (2) (d) of the statutes is amended to read:

12 71.59 (2) (d) For property taxes accrued on farmland zoned for exclusive
13 agricultural use under an ordinance certified under subch. V of ch. 91, 2007 stats.,
14 which is granted a special exception or conditional use permit for a use which is not
15 an agricultural use, as defined in s. 91.01 (1), 2007 stats.

16 **SECTION 37.** 71.59 (2) (e) of the statutes is amended to read:

17 71.59 (2) (e) If the department determines that ownership of the farmland has
18 been transferred to the claimant primarily for the purpose of maximizing benefits
19 under ~~this subchapter~~ ss. 71.57 to 71.61.

20 **SECTION 38.** 71.60 (1) (b) of the statutes is amended to read:

21 71.60 (1) (b) The credit allowed under ~~this subchapter~~ ss. 71.57 to 71.61 shall
22 be limited to 90% of the first \$2,000 of excessive property taxes plus 70% of the 2nd
23 \$2,000 of excessive property taxes plus 50% of the 3rd \$2,000 of excessive property
24 taxes. The maximum credit shall not exceed \$4,200 for any claimant. The credit for
25 any claimant shall be the greater of either the credit as calculated under ~~this~~

1 ~~subchapter ss. 71.57 to 71.61~~ as it exists at the end of the year for which the claim
2 is filed or as it existed on the date on which the farmland became subject to a current
3 agreement under subch. II or III of ch. 91, 2007 stats., using for such calculations
4 household income and property taxes accrued of the year for which the claim is filed.

5 **SECTION 39.** 71.61 of the statutes is amended to read:

6 **71.61 General provisions. (1)** DEPARTMENT MAY APPLY CREDIT AGAINST ANY TAX
7 LIABILITY. The amount of any claim otherwise payable under ~~this subchapter ss. 71.57~~
8 to 71.61 may be applied by the department against any amount certified to the
9 department under s. 71.93 or 71.935 or may be credited under s. 71.80 (3) or (3m).

10 **(2)** CREDITS ARE INCOME. All amounts allowed as credits under ~~this subchapter~~
11 ss. 71.57 to 71.61 constitute income for income and franchise tax purposes and are
12 reportable as such in the year of receipt.

13 **(3)** INTEREST NOT ALLOWED. No interest may be allowed on any payment made
14 to a claimant under ~~this subchapter ss. 71.57 to 71.61.~~

15 **(3m)** ADMINISTRATION. The income tax provisions in this chapter relating to
16 assessments, refunds, appeals and collection apply to the credit under ~~this~~
17 subchapter ss. 71.57 to 71.61.

18 **(4)** PENALTIES. Unless specifically provided in ~~this subchapter ss. 71.57 to~~
19 71.61, the penalties under subch. XIII apply for failure to comply with ~~this~~
20 subchapter ss. 71.57 to 71.61 unless the context requires otherwise.

21 **(5)** TABLE PREPARED BY DEPARTMENT. The department shall prepare a table under
22 which claims under ~~this subchapter ss. 71.57 to 71.61~~ shall be determined.

23 **SECTION 40.** 71.61 (6) of the statutes is created to read:

24 **71.61 (6) PROHIBITION OF NEW CLAIMS.** For taxable years beginning after
25 December 31, 2009, no new claims for a credit may be filed under ss. 71.57 to 71.61,

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1 but if an otherwise eligible claimant is subject to a farmland preservation agreement,
2 as defined in s. 91.01 (7), 2007 stats., that is in effect on January 1, 2010, the claimant
3 may continue to file a claim for the credit under ss. 71.57 to 71.61 until the farmland
4 preservation agreement expires, except that no claimant who files a claim under ss.
5 71.57 to 71.61 may file a claim under s. 71.613.

****NOTE: Is this prohibition against a "double-dip" consistent with your intent?

6 **SECTION 41.** 71.613 of the statutes is created to read:

7 **71.613 Farmland preservation credit, 2010 and beyond. (1) DEFINITIONS.**

8 In this section:

9 (a) "Agricultural use" has the meaning given in s. 91.01 (2).

10 (b) "Claimant" means a person who owns farmland in this state, or who owned
11 farmland in this state during the taxable year to which the claim under this section
12 relates, and who files a claim under this section.

13 (c) "Department" means the department of revenue.

14 (d) "Farm" means a farm, as defined in s. 91.01 (13), that has produced at least
15 \$6,000 in gross farm profits during the taxable year to which the claim relates or, in
16 the taxable year to which the claim relates and the 2 immediately preceding taxable
17 years, at least \$18,000 in gross farm profits.

18 (e) "Farmland preservation agreement" has the meaning given in s. 91.01 (15).

19 (f) "Farmland preservation zoning district" has the meaning given in s. 91.01
20 (18).

21 (g) "Gross farm profits" means gross receipts from agricultural use of a farm,
22 less the cost or other basis of livestock or other agricultural items purchased for
23 resale which are sold or otherwise disposed of during the taxable year.

1 (h) "Qualifying acres" means the number of acres of a farm that correlate to a
2 claimant's percentage of ownership interest in a farm to which one of the following
3 applies:

4 1. The farm is wholly or partially covered by a farmland preservation
5 agreement, except that if the farm is only partially covered, the qualifying acres
6 calculation includes only those acres which are covered by a farmland preservation
7 agreement.

****NOTE: Is this change consistent with your intent?

8 2. The farm is located in a farmland preservation zoning district at the end of
9 the taxable year to which the claim relates.

10 3. If the claimant transferred the claimant's ownership interest in the farm
11 during the taxable year to which the claim relates, the farm was wholly or partially
12 covered by a farmland preservation agreement, or the farm was located in a farmland
13 preservation zoning district, on the date on which the claimant transferred the
14 ownership interest. For the purposes of this subdivision, a land contract is a transfer
15 of ownership interest.

16 **(2) FILING CLAIMS.** Subject to the limitations and conditions provided in sub. (3),
17 a claimant may claim as a credit against the tax imposed under s. 71.02, 71.23, or
18 71.43, up to the amount of those taxes, an amount calculated by multiplying the
19 claimant's qualifying acres by one of the following amounts:

20 (a) Ten dollars, if the qualifying acres are located in a farmland preservation
21 zoning district and are also subject to a farmland preservation agreement that is
22 entered into after the effective date of this paragraph [LRB inserts date].

23 (b) Seven dollars and 50 cents, if the qualifying acres are located in a farmland
24 preservation zoning district but are not subject to a farmland preservation

1 agreement that is entered into after the effective date of this paragraph [LRB
2 inserts date].

3 (c) Five dollars, if the qualifying acres are subject to a farmland preservation
4 agreement that is entered into after the effective date of this paragraph [LRB
5 inserts date], but are not located in a farmland preservation zoning district.

6 (3) LIMITATIONS AND CONDITIONS. (a) No credit may be allowed under this section
7 unless all of the following apply:

8 1. The claimant has paid, or is legally responsible for paying, the property taxes
9 levied against the qualifying acres to which the claim relates.

10 2. At the end of the taxable year to which the claim relates or, on the date on
11 which the person transferred the person's ownership interest in the farm if the
12 transfer occurs during the taxable year to which the claim relates, there was no
13 outstanding notice of noncompliance issued against the farm under s. 91.82 (2).

14 3. The claimant submits to the department a certification of compliance with
15 soil and water conservation standards, as required by s. 91.80, issued by the county
16 land conservation committee unless, in the last preceding year, the claimant received
17 a tax credit under ss. 71.57 to 71.61 or this section for the same farm.

****NOTE: Is "certification of compliance" correct, or do you mean "certificate of
compliance?" Also, is it your intent that, essentially, a claimant only needs to be certified
once?

18 (b) If a farm is jointly owned by 2 or more persons who file separate income or
19 franchise tax returns, each person may claim a credit under this section based on the
20 person's ownership interest in the farm.

21 (c) If a person acquires or transfers ownership of a farm during a taxable year
22 for which a claim may be filed under this section, the person may file a claim under

1 this section based on the person's liability for the property taxes levied on the
2 person's qualifying acres for the taxable year to which the claim relates.

3 (d) A claimant shall claim the credit under this section on a form prepared by
4 the department and shall submit any documentation required by the department.
5 On the claim form, the claimant shall certify all of the following:

6 1. The number of qualifying acres for which the credit is claimed.

7 2. The location and tax parcel number for each parcel on which the qualifying
8 acres are located.

9 4. That the qualifying acres are covered by a farmland preservation agreement
10 or located in a farmland preservation zoning district, or both.

11 5. That the qualifying acres are part of a farm that complies with applicable
12 state soil and water conservation standards, as required by s. 91.80.

13 (e) No credit may be allowed under this section unless it is claimed within the
14 time period under s. 71.75 (2).

15 (4) ADMINISTRATION. The department may enforce the credit under this section
16 and may take any action, conduct any proceeding, and proceed as it is authorized in
17 respect to taxes under this chapter. The income and franchise tax provisions in this
18 chapter relating to assessments, refunds, appeals, collection, interest, and penalties
19 apply to the credit under this section.

20 **SECTION 42.** Chapter 91 of the statutes is repealed and recreated to read:

21 **CHAPTER 91**

22 **FARMLAND PRESERVATION**

23 **SUBCHAPTER I**

24 **DEFINITIONS AND GENERAL PROVISIONS**

25 **91.01 Definitions.** In this chapter:

(1) "Accessory use" means any of the following land uses on a farm:

(a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.

(b) An activity or business operation that is an integral part of, or incidental to, an agricultural use.

(c) A farm residence.

(d) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

(e) Any other use that the department, by rule, identifies as an accessory use.

(1m) "Agricultural enterprise area" means an area designated in accordance with s. 91.84.

(2) "Agricultural use" means any of the following:

(a) Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.

2. Keeping livestock.

3. Beekeeping.

4. Nursery, sod, or Christmas tree production.

4m. Floriculture.

5. Aquaculture.

6. Fur farming.

1 7. Forest management.

2 8. Enrolling land in a federal agricultural commodity payment program or a
3 federal or state agricultural land conservation payment program.

4 (b) Any other use that the department, by rule, identifies as an agricultural use.

5 **(3)** "Agriculture-related use" means any of the following:

6 (a) An agricultural equipment dealership, facility providing agricultural
7 supplies, facility for storing or processing agricultural products, or facility for
8 processing agricultural wastes.

9 (b) Any other use that the department, by rule, identifies as an
10 agriculture-related use.

11 **(5)** "Base farm tract" means one of the following:

12 (a) All land, whether one parcel or 2 or more contiguous parcels, that is in a
13 farmland preservation zoning district and that is part of a single farm when the
14 department under s. 91.36 (1) first certifies the farmland preservation zoning
15 ordinance covering the land, regardless of any subsequent changes in the size of the
16 farm.

17 (b) Any other tract that the department by rule defines as a base farm tract.

18 **(6)** "Certified farmland preservation plan" means a farmland preservation
19 plan that is certified as determined under s. 91.12.

20 **(7)** "Certified farmland preservation zoning ordinance" means a zoning
21 ordinance that is certified as determined under s. 91.32.

22 **(8)** "Chief elected official" means the mayor of a city or, if the city is organized
23 under subch. I of ch. 64, the president of the council of that city, the village president
24 of a village, the town board chairperson of a town, or the county executive of a county,

1 or, if the county does not have a county executive, the chairperson of the county board
2 of supervisors.

3 (9) "Comprehensive plan" has the meaning given in s. 66.1001 (1) (a).

4 (10) "Conditional use" means a use allowed under a conditional use permit,
5 special exception, or other special zoning permission issued by a political
6 subdivision.

7 (11) "County land conservation committee" means a committee created under
8 s. 92.06 (1).

9 (12) "Department" means the department of agriculture, trade and consumer
10 protection.

11 (13) "Farm" means all land under common ownership that is primarily devoted
12 to agricultural use.

13 (14) "Farm acreage" means size of a farm in acres.

14 (15) "Farmland preservation agreement" means any of the following
15 agreements between an owner of land and the department under which the owner
16 agrees to restrict the use of land in return for tax credits:

17 (a) A farmland preservation agreement or transition area agreement entered
18 into under s. 91.13, 2007 stats., or s. 91.14, 2007 stats.

19 (b) An agreement entered into under s. 91.60 (1).

20 (16) "Farmland preservation area" means an area that is planned primarily
21 for agricultural use or agriculture-related use, or both, and that is one of the
22 following:

23 (a) Identified as an agricultural preservation area or transition area in a
24 farmland preservation plan described in s. 91.12 (1).

1 (b) Identified under s. 91.10 (1) (d) in a farmland preservation plan described
2 in s. 91.12 (2).

3 (17) "Farmland preservation plan" means a plan for the preservation of
4 farmland in a county, including an agricultural preservation plan under subch. IV
5 of ch. 91, 2007 stats.

6 (18) "Farmland preservation zoning district" means any of the following:

7 (a) An area zoned for exclusive agricultural use under an ordinance described
8 in s. 91.32 (1).

9 (b) A farmland preservation zoning district designated under s. 91.38 (1) (c) in
10 an ordinance described in s. 91.32 (2).

11 (19) "Farm residence" means any of the following structures that is located on
12 a farm:

13 (a) A single-family or duplex residence that is the only residential structure
14 on the farm or is occupied by any of the following:

15 1. An owner or operator of the farm.

16 2. A parent or child of an owner or operator of the farm.

17 3. An individual who earns more than 50 percent of his or her gross income from
18 the farm.

19 (b) A migrant labor camp that is certified under s. 103.92.

20 (20) "Gross farm profits" has the meaning given in s. 71.613 (1) (g).

21 (20m) "Livestock" means bovine animals, equine animals, goats, poultry,
22 sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and
23 farm-raised fish.

24 (21) "Nonfarm residence" means a single-family or multi-family residence
25 other than a farm residence.

1 (22) "Nonfarm residential acreage" means the total number of acres of all
2 parcels on which nonfarm residences are located.

3 (22m) "Overlay district" means a zoning district that is superimposed on one
4 or more other zoning districts and imposes additional restrictions on the underlying
5 districts.

6 (23) "Owner" means a person who has an ownership interest in land.

7 (23m) "Permitted use" means a use that is allowed without a conditional use
8 permit, special exception, or other special zoning permission.

9 (24) "Political subdivision" means a city, village, town, or county.

10 (25) "Prime farmland" means any of the following:

11 (a) An area with a class I or class II land capability classification as identified
12 by the natural resources conservation service of the federal department of
13 agriculture.

14 (b) Land, other than land described in par. (a), that is identified as prime
15 farmland in a certified farmland preservation plan.

16 (26) "Prior nonconforming use" means a land use that does not conform with
17 a farmland preservation zoning ordinance, but that existed lawfully before the
18 farmland preservation zoning ordinance was enacted.

19 (27) "Protected farmland" means land that is located in a farmland
20 preservation zoning district, is covered by a farmland preservation agreement, or is
21 otherwise legally protected from nonagricultural development.

22 (28) "Taxable year" has the meaning given in s. 71.01 (12).

23 **91.02 Rule making.** (1) The department shall promulgate rules that set forth
24 technical specifications for farmland preservation zoning maps under s. 91.38 (1) (d).

1 (2) The department may promulgate rules for the administration of this
2 chapter, including rules that do any of the following:

3 (a) Identify accessory uses under s. 91.01 (1) (e).

4 (b) Identify agricultural uses under s. 91.01 (2) (b).

5 (c) Identify agriculture-related uses under s. 91.01 (3) (b).

6 (d) Identify base farm tracts under s. 91.01 (5) (b).

7 (e) Specify requirements for certification under s. 91.18 (1) (b).

8 (f) Require information in an application for certification of a farmland
9 preservation plan or amendment under s. 91.20 (4).

10 (g) Specify types of ordinance amendments for which certification is required
11 under s. 91.36 (8) (b) 3.

12 (h) Specify exceptions to the requirement that land in a farmland preservation
13 zoning district be included in a farmland preservation area under s. 91.38 (1) (g).

14 (i) Specify requirements for certification of a farmland preservation zoning
15 ordinance under s. 91.38 (1) (i).

16 (j) Require information in an application for certification of a farmland
17 preservation zoning ordinance or amendment under s. 91.40 (5).

18 (k) Authorize additional uses in a farmland preservation zoning district under
19 s. 91.42 (4).

20 (L) Authorize additional uses as permitted uses in a farmland preservation
21 zoning district under s. 91.44 (1) (g).

22 (m) Authorize additional uses as conditional uses in a farmland preservation
23 zoning district under s. 91.46 (1) (j).

24 (o) Designate agricultural enterprise areas and modify and terminate
25 designations of those areas under s. 91.84.

1 (p) Require information in an application for a farmland preservation
2 agreement under s. 91.64 (2) (h).

3 (r) Prescribe procedures for compliance monitoring under s. 91.82 (3).

4 **91.03 Intergovernmental cooperation.** State agencies shall cooperate with
5 the department in the administration of this chapter and in other matters related
6 to the preservation of farmland in this state. State agencies shall, to the extent
7 feasible, cooperate in sharing and standardizing relevant information, identifying
8 and mapping significant agricultural resources, and planning and evaluating the
9 impact of state actions on agriculture.

10 **91.04 Department to report.** At least once every 2 years, beginning not later
11 than December 31, 2011, the department shall submit a farmland preservation
12 report to the board of agriculture, trade and consumer protection and provide copies
13 of the report to the department of revenue and the department of administration.
14 The department shall prepare the report in cooperation with the department of
15 revenue and shall include all of the following in the report:

16 (1) A review and analysis of farmland availability, uses, and use trends in this
17 state, including information related to farmland conversion statewide and by county.

18 (2) A review and analysis of relevant information related to the farmland
19 preservation program under this chapter and associated tax credit claims under
20 subch. IX of ch. 71, including information related to all of the following:

21 (a) Participation in the program by political subdivisions and landowners.

22 (b) Tax credit claims by landowners, including the number of claimants, the
23 amount of credits claimed, acreage covered by tax credit claims, the amount of credits
24 claimed under zoning ordinances and under farmland preservation agreements, and
25 relevant projections and trends.

1 (c) The number, identity, and location of counties with certified farmland
2 preservation plans.

3 (d) Trends and developments related to certification of farmland preservation
4 plans.

5 (e) The number, identity, and location of political subdivisions with certified
6 farmland preservation zoning ordinances.

7 (f) Trends and developments related to certification of farmland preservation
8 zoning ordinances.

9 (g) The number, nature, and location of agricultural enterprise areas.

10 (h) The number and location of farms covered by farmland preservation
11 agreements, including new farmland preservation agreements, and the number and
12 location of farms for which farmland preservation agreements have expired.

13 (i) Conservation compliance by landowners under s. 91.80 and compliance
14 activities by county land conservation committees under s. 91.82.

15 (j) Rezoning of land out of farmland preservation zoning districts under s.
16 91.48, including the amounts of conversion fees paid to political subdivisions under
17 s. 91.48 (1) (b).

18 (k) Program costs, cost trends, and cost projections.

19 (L) Key issues related to program performance and key recommendations, if
20 any, for enhancing the program.

21 SUBCHAPTER II

22 FARMLAND PRESERVATION PLANNING

23 **91.10 County plan required; planning grants.** (1) By January 1, 2015, a
24 county shall adopt a farmland preservation plan that does all of the following:

****NOTE: Should this date be changed? (See the date in proposed s. 20.115 (7) (dm).)

1 (a) States the county's policy related to farmland preservation and agricultural
2 development, including the development of enterprises related to agriculture.

3 (b) Identifies, describes, and documents other development trends, plans, or
4 needs, that may affect farmland preservation and agricultural development in the
5 county, including trends, plans, or needs related to population and economic growth,
6 housing, transportation, utilities, communications, business development,
7 community facilities and services, energy, waste management, municipal expansion,
8 and environmental preservation.

9 (c) Identifies, describes, and documents all of the following:

10 1. Agricultural uses of land in the county at the time that the farmland
11 preservation plan is adopted, including key agricultural specialties, if any.

12 2. Key agricultural resources, including available land, soil, and water
13 resources.

14 3. Key infrastructure for agriculture, including key processing, storage,
15 transportation, and supply facilities.

16 4. Significant trends in the county related to agricultural land use, agricultural
17 production, enterprises related to agriculture, and the conversion of agricultural
18 lands to other uses.

19 5. Anticipated changes in the nature, scope, location, and focus of agricultural
20 production, processing, supply, and distribution.

21 6. Goals for agricultural development in the county, including goals related to
22 the development of enterprises related to agriculture.

1 7. Actions that the county will take to preserve farmland and to promote
2 agricultural development.

3 8. Key land use issues related to preserving farmland and to promoting
4 agricultural development and plans for addressing those issues.

5 (d) Clearly identifies areas that the county plans to preserve for agricultural
6 use and agriculture-related uses, which may include undeveloped natural resource
7 and open space areas but may not include any area that is planned for
8 nonagricultural development within 15 years after the date on which the plan is
9 adopted.

10 (e) Includes maps that clearly delineate all areas identified under par. (d), so
11 that a reader can easily determine whether a parcel is within an identified area.

12 (f) Clearly correlates the maps under par. (e) with text that describes the types
13 of land uses planned for each area on a map.

14 (g) Identifies programs and other actions that the county and local
15 governmental units within the county may use to preserve the areas identified under
16 par. (d).

17 **(2)** If the county has a comprehensive plan, the county shall include the
18 farmland preservation plan in its comprehensive plan and shall ensure that the
19 farmland preservation plan is consistent with the comprehensive plan. The county
20 may incorporate information contained in other parts of the comprehensive plan into
21 the farmland preservation plan by reference.

22 **(3)** To adopt a farmland preservation plan under sub. (1), a county shall follow
23 the procedures under s. 66.1001 (4) for the adoption of a comprehensive plan.

24 **(4)** The department may provide information and assistance to a county in
25 developing a farmland preservation plan under sub. (1).

1 (5) A county shall notify the department before the county holds a public
2 hearing on a proposed farmland preservation plan under sub. (1) or on any
3 amendment to a farmland preservation plan. The county shall include a copy of the
4 proposed farmland preservation plan or amendment in the notice. The department
5 may review and comment on the plan or amendment.

6 (6) (a) From the appropriation under s. 20.115 (7) (dm), the department may
7 award a planning grant to a county to provide reimbursement for up to 50 percent
8 of the county's cost of preparing a farmland preservation plan required under sub.
9 (1). In determining priorities for awarding grants under this subsection, the
10 department shall consider the expiration dates for plan certification under s. 91.14.

11 (b) The department shall enter into a contract with a county to which it awards
12 a planning grant under par. (a) before the department distributes any grant funds
13 to the county. In the contract, the department shall identify the costs that are eligible
14 for reimbursement through the grant.

15 (c) The department may distribute grant funds under this subsection only after
16 the county shows that it has incurred costs that are eligible for reimbursement under
17 par. (b). The department may not distribute more than 50 percent of the amount of
18 a grant under this subsection for a farmland preservation plan before the county
19 submits the farmland preservation for certification under s. 91.16.

20 (d) The department may not enter into a contract under par. (b) after June 30,
21 2016.

22 **91.12 Certified plan.** The following farmland preservation plans are
23 certified, for the purposes of this chapter and s. 71.613:

24 (1) An agricultural preservation plan that was certified under s. 91.06, 2007
25 stats., if the certification has not expired.

1 (2) A farmland preservation plan that was certified under s. 91.16 if the
2 certification has not expired or been withdrawn.

3 **91.14 Expiration of plan certification.** (1) The certification of a farmland
4 preservation plan that was certified under s. 91.06, 2007 stats., expires on the date
5 provided in the certification or, if the certification does not provide an expiration
6 date, on the following date:

7 (a) December 31, 2011, for a county with an increase in population per square
8 mile of more than 9 percent.

9 (b) December 31, 2012, for a county with an increase in population per square
10 mile of more than 3.75 percent but not more than 9 percent.

11 (c) December 31, 2013, for a county with an increase in population per square
12 mile of more than 1.75 percent but not more than 3.75 percent.

13 (d) December 31, 2014, for a county with an increase in population per square
14 mile of more than 0.8 percent but not more than 1.75 percent.

15 (e) December 31, 2015, for a county with an increase in population per square
16 mile of not more than 0.8 percent.

17 (2) The certification of a farmland preservation plan that the department
18 certifies under s. 91.16 expires on the date specified under s. 91.16 (2).

19 (3) For the purposes of sub. (1), a county's increase in population per square
20 mile is the percentage by which the county's population per square mile based on the
21 department of administration's 2007 population estimate under s. 16.96 exceeds the
22 county's population per square mile based on the 2000 federal census.

23 **91.16 Certification of plan by the department.** (1) GENERAL. The
24 department may certify a farmland preservation plan or an amendment to a
25 farmland preservation plan as provided in this section.

1 (2) CERTIFICATION PERIOD. (a) The department may certify a farmland
2 preservation plan for a period that does not exceed 10 years. The department shall
3 specify the expiration date of the certification of the farmland preservation plan in
4 the certification.

5 (b) The certification of an amendment to a certified farmland preservation plan
6 expires on the date that the certification of the farmland preservation plan expires,
7 except that the department may treat a comprehensive revision of a certified
8 farmland preservation plan as a new farmland preservation plan and shall specify
9 an expiration date for the certification of the revised farmland preservation plan as
10 provided in par. (a).

11 (3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a county's
12 farmland preservation plan or an amendment to the farmland preservation plan
13 based on the county's certification under s. 91.20 (3), without conducting any
14 additional review or audit.

15 (b) The department may do any of the following before it certifies a county's
16 farmland preservation plan or amendment:

17 1. Review the farmland preservation plan or amendment for compliance with
18 s. 91.18.

19 2. Review and independently verify the application for certification, including
20 the statement under s. 91.20 (3).

21 (4) DENIAL OF CERTIFICATION. The department shall deny a county's application
22 for certification of a farmland preservation plan or amendment if the department
23 finds any of the following:

24 (a) That the farmland preservation plan or amendment does not comply with
25 the requirements in s. 91.18.

1 (b) That the application for certification does not comply with s. 91.20.

2 (5) WRITTEN DECISION; DEADLINE. The department shall grant or deny an
3 application for certification under this section no more than 90 days after the day on
4 which the county submits a complete application, unless the county agrees to an
5 extension. The department shall issue its decision in the form required by s. 227.47
6 (1).

7 (6) CONDITIONAL CERTIFICATION. The department may grant an application for
8 certification under this section subject to conditions specified by the department in
9 its decision under sub. (5). The department may certify a farmland preservation plan
10 or amendment contingent upon the county board adopting the farmland
11 preservation plan or amendment as certified.

12 (7) EFFECTIVE DATE OF CERTIFICATION. A certification under this section takes
13 effect on the day on which the department issues its decision, except that if the
14 department specifies conditions under sub. (6), the certification takes effect on the
15 day on which the department determines that the county has met the conditions.

16 (8) EFFECTIVENESS OF PLAN AMENDMENTS. For purposes of this chapter and s.
17 71.613, a certified farmland preservation plan does not include an amendment
18 adopted after the effective date of this subsection [LRB inserts date], unless the
19 department certifies the amendment.

20 (9) WITHDRAWAL OF CERTIFICATION. The department may withdraw a
21 certification that it granted under sub. (3) (a) if the department finds that the
22 farmland preservation plan materially violates the requirements under s. 91.18.

23 **91.18 Requirements for certification of plan.** (1) A farmland preservation
24 plan qualifies for certification under s. 91.16 if it complies with all of the following:

25 (a) The requirements in s. 91.10 (1) and (2).

1 (b) Any other requirements that the department specifies by rule.

2 (2) An amendment to a farmland preservation plan qualifies for certification
3 under s. 91.16 if it complies with all of the requirements in sub. (1) that are relevant
4 to the amendment and it does not cause the farmland preservation plan to violate
5 any of the requirements in sub. (1).

6 **91.20 Applying for certification of plan.** A county seeking certification of
7 a farmland preservation plan or amendment to a farmland preservation plan shall
8 submit all of the following to the department in writing, along with any other
9 relevant information that the county chooses to provide:

10 (1) The proposed farmland preservation plan or amendment.

11 (2) All of the following background information:

12 (a) A concise summary of the farmland preservation plan or amendment,
13 including key changes from any previously certified farmland preservation plan.

14 (b) A concise summary of the process by which the farmland preservation plan
15 or amendment was developed, including public hearings, notice to and involvement
16 of other governmental units within the county, approval by the county, and
17 identification of any key unresolved issues between the county and other
18 governmental units within the county related to the farmland preservation plan or
19 amendment.

20 (c) The relationship of the farmland preservation plan or amendment to any
21 county comprehensive plan.

22 (3) A statement, signed by the county corporation counsel and the county
23 planning director or chief elected official, certifying that the farmland preservation
24 plan or amendment complies with all of the requirements in s. 91.18.

25 (4) Other relevant information that the department requires by rule.

SUBCHAPTER III

FARMLAND PRESERVATION ZONING

91.30 Authority to adopt. A political subdivision may adopt a farmland preservation zoning ordinance.

91.32 Certified ordinance. The following zoning ordinances are certified, for the purposes of this chapter and s. 71.613:

(1) An exclusive agricultural use zoning ordinance that was certified under s. 91.06, 2007 stats., if the certification has not expired or been withdrawn.

(2) A farmland preservation zoning ordinance that was certified under s. 91.36 if the certification has not expired or been withdrawn.

91.34 Expiration of zoning certification. (1) The certification of a farmland preservation zoning ordinance that was certified under s. 91.06, 2007 stats., expires on the date provided in the certification or, if the certification does not provide an expiration date, on the following date:

(a) December 31, 2012, for a county with an increase in population per square mile of more than 9 percent or a city, village, or town in such a county.

(b) December 31, 2013, for a county with an increase in population per square mile of more than 3.75 percent but not more than 9 percent or a city, village, or town in such a county.

(c) December 31, 2014, for a county with an increase in population per square mile of more than 1.75 percent but not more than 3.75 percent or a city, village, or town in such a county.

(d) December 31, 2015, for a county with an increase in population per square mile of more than 0.8 percent but not more than 1.75 percent or a city, village, or town in such a county.

1 (e) December 31, 2016, for a county with an increase in population per square
2 mile of not more than 0.8 percent or a city, village, or town in such a county.

3 (2) The certification of a farmland preservation zoning ordinance that the
4 department certifies under s. 91.36 expires on the date specified under s. 91.36 (2).

5 (3) For the purposes of sub. (1), a county's increase in population per square
6 mile is the percentage by which the county's population per square mile based on the
7 department of administration's 2007 population estimate under s. 16.96 exceeds the
8 county's population per square mile based on the 2000 federal census.

9 **91.36 Certification of zoning ordinance by the department. (1)**

10 GENERAL. The department may certify a farmland preservation zoning ordinance or
11 an amendment to a farmland preservation zoning ordinance as provided in this
12 section.

13 (2) CERTIFICATION PERIOD. (a) The department may certify a farmland
14 preservation zoning ordinance for a period that does not exceed 10 years. The
15 department shall specify the expiration date of the certification of the farmland
16 preservation zoning ordinance in the certification.

17 (b) The certification of an amendment to a certified farmland preservation
18 zoning ordinance expires on the date that the certification of the farmland
19 preservation zoning ordinance expires, except that the department may treat a
20 comprehensive revision of a certified farmland preservation zoning ordinance as a
21 new farmland preservation zoning ordinance and specify an expiration date for the
22 certification of the revised farmland preservation zoning ordinance as provided in
23 par. (a).

24 (3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a farmland
25 preservation zoning ordinance or amendment to a farmland preservation zoning

1 ordinance based on statements submitted under s. 91.40 (3) and (4), without
2 conducting any additional review or audit.

3 (b) The department may do any of the following before it certifies a farmland
4 preservation zoning ordinance or amendment:

5 1. Review the farmland preservation zoning ordinance or amendment for
6 compliance with the requirements under s. 91.38.

7 2. Review and independently verify the application for certification, including
8 the statements under s. 91.40 (3) and (4).

9 **(4) DENIAL OF CERTIFICATION.** The department shall deny an application for
10 certification of a farmland preservation zoning ordinance or amendment if the
11 department finds any of the following:

12 (a) That the farmland preservation zoning ordinance or amendment does not
13 comply with the requirements in s. 91.38.

14 (b) That the application for certification does not comply with s. 91.40.

15 **(5) WRITTEN DECISION; DEADLINE.** The department shall grant or deny an
16 application for certification under this section no more than 90 days after the day on
17 which the political subdivision submits a complete application, unless the political
18 subdivision agrees to an extension. The department shall issue its decision in the
19 form required by s. 227.47 (1).

20 **(6) CONDITIONAL CERTIFICATION.** The department may grant an application for
21 certification under this section subject to conditions specified by the department in
22 its decision under sub. (5). The department may certify a farmland preservation
23 zoning ordinance or amendment contingent upon the political subdivision adopting
24 the farmland preservation zoning ordinance or amendment as certified.

1 (7) EFFECTIVE DATE OF CERTIFICATION. A certification under this section takes
2 effect on the day on which the department issues the certification, except that if the
3 department specifies conditions under sub. (6), the certification takes effect on the
4 day on which the department determines that the political subdivision has met the
5 conditions.

6 (8) AMENDMENTS TO ORDINANCES; CERTIFICATION. (a) Except as provided in par.
7 (b), an amendment to a certified farmland preservation zoning ordinance is
8 automatically considered to be certified as part of the certified farmland preservation
9 zoning ordinance.

10 (b) An amendment to a certified farmland preservation zoning ordinance that
11 is one of the following and that is adopted after the effective date of this paragraph
12 [LRB inserts date], is not automatically considered to be certified:

13 1. An amendment that is a comprehensive revision of a certified farmland
14 preservation zoning ordinance.

15 2. An amendment that extends coverage of a certified farmland preservation
16 zoning ordinance to a town that was not previously covered.

17 3. An amendment of a type specified by the department by rule that may
18 materially affect compliance of the certified farmland preservation zoning ordinance
19 with the requirements under s. 91.38.

20 (c) The department may withdraw certification of a farmland preservation
21 zoning ordinance if, as a result of an amendment adopted after the effective date of
22 this paragraph [LRB inserts date], the amended farmland preservation zoning
23 ordinance fails to comply with the requirements under s. 91.38. This paragraph
24 applies regardless of whether the farmland preservation zoning ordinance was
25 originally certified under s. 91.06, 2007 stats., or under this section.

1 (d) A political subdivision shall notify the department in writing whenever the
2 political subdivision adopts a material amendment to a certified farmland
3 preservation zoning ordinance. The political subdivision shall include a copy of the
4 amendment in the notice. For the purposes of this paragraph, an amendment that
5 rezones land out of a farmland preservation zoning district is not a material
6 amendment.

****NOTE: How would a political subdivision know whether an amendment is
material? Is that intended to refer to amendments described in par. (b) 1. to 3.?

7 **91.38 Requirements for certification of ordinance.** (1) A farmland
8 preservation zoning ordinance does not qualify for certification under s. 91.36 unless
9 all of the following apply:

10 (a) The farmland preservation zoning ordinance includes jurisdictional,
11 organizational, and enforcement provisions that are necessary for proper
12 administration.

13 (c) The farmland preservation zoning ordinance clearly designates farmland
14 preservation zoning districts in which land uses are limited in compliance with s.
15 91.42.

16 (d) The farmland preservation zoning ordinance includes maps that clearly
17 delineate each farmland preservation zoning district, so that a reader can easily
18 determine whether a parcel is within a farmland preservation zoning district; that
19 are correlated to the text under par. (e); and that comply with technical specifications
20 that the department establishes by rule.

21 (e) The text of the farmland preservation zoning ordinance clearly describes the
22 types of land uses authorized in each farmland preservation zoning district.

1 (f) The farmland preservation zoning ordinance is substantially consistent
2 with a certified farmland preservation plan.

3 (g) Except as provided by the department by rule, land is not included in a
4 farmland preservation zoning district unless the land is included in a farmland
5 preservation area identified in the county certified farmland preservation plan.

6 (h) If an overlay district, such as an environmental corridor, is superimposed
7 on a farmland preservation zoning district, all of the following apply:

8 1. The farmland preservation zoning ordinance clearly identifies the overlay
9 district as such.

10 2. The overlay district is shown on the maps under par. (d) in a way that allows
11 a reader to easily identify the underlying farmland preservation zoning district and
12 its boundaries.

13 3. The overlay district does not remove land use restrictions from the
14 underlying farmland preservation zoning district.

15 (i) The farmland preservation zoning ordinance complies with any other
16 requirements that the department specifies by rule.

17 (2) An amendment to a farmland preservation zoning ordinance qualifies for
18 certification under s. 91.36 if it complies with all of the requirements in sub. (1) that
19 are relevant to the amendment and it does not cause the farmland preservation
20 zoning ordinance to violate any of the requirements in sub. (1).

21 **91.40 Applying for certification of ordinance.** A political subdivision
22 seeking certification of a farmland preservation zoning ordinance or amendment to
23 a farmland preservation zoning ordinance shall submit all of the following to the
24 department in writing, along with any other relevant information that the political
25 subdivision chooses to provide:

1 (1) The complete farmland preservation zoning ordinance or amendment
2 proposed for certification.

3 (2) All of the following background information:

4 (a) A concise summary of the farmland preservation zoning ordinance or
5 amendment, including key changes from any previously certified farmland
6 preservation zoning ordinance.

7 (b) A concise summary of the process by which the farmland preservation
8 zoning ordinance or amendment was developed, including public hearings, notice to
9 and involvement of other governmental units, approval by the political subdivision,
10 and identification of any key unresolved issues with other governmental units
11 related to the farmland preservation zoning ordinance or amendment.

12 (c) A description of the relationship of the farmland preservation zoning
13 ordinance or amendment to the county certified farmland preservation plan,
14 including any material inconsistencies between the farmland preservation zoning
15 ordinance or amendment and the county certified farmland preservation plan.

16 (3) A statement, signed by the county planning director or the chief elected
17 official, certifying that the farmland preservation zoning ordinance or amendment
18 complies with s. 91.38 (1) (g) and (h).

19 (4) A statement, signed by the applicant's attorney or chief elected official,
20 certifying that the farmland preservation zoning ordinance or amendment complies
21 with all applicable requirements in s. 91.38.

22 (5) Other relevant information that the department requires by rule.

23 **91.42 Land use in farmland preservation zoning districts; general.** A
24 farmland preservation zoning ordinance does not qualify for certification under s.

1 91.36, if the farmland preservation zoning ordinance allows a land use in a farmland
2 preservation zoning district other than the following land uses:

3 (1) Uses identified as permitted uses in s. 91.44.

4 (2) Uses identified as conditional uses in s. 91.46.

5 (3) Prior nonconforming uses, subject to the following:

6 (a) A prior nonconforming use that is a residence may be expanded or
7 remodeled, as long as there is no increase in the number of dwelling units in the
8 residence.

9 (b) A prior nonconforming use that is not a residence may continue without
10 further approval unless it is materially altered.

11 (c) The proposed farmland preservation zoning districts under the farmland
12 preservation zoning ordinance contain only isolated prior nonconforming uses.

13 (4) Other uses allowed by the department by rule.

14 **91.44 Permitted uses.** (1) A farmland preservation zoning ordinance does
15 not comply with s. 91.42 if the farmland preservation zoning ordinance allows as a
16 permitted use in a farmland preservation zoning district a land use other than the
17 following land uses:

18 (a) Agricultural uses.

19 (b) Accessory uses.

20 (c) Agriculture-related uses.

21 (d) Nonfarm residences constructed in a rural residential cluster in accordance
22 with an approval of the cluster as a conditional use under s. 91.46 (1) (e).

23 (e) Undeveloped natural resource and open space areas.

24 (f) A transportation, utility, communication, or other use that is required under
25 state or federal law to be located in a specific place or that is authorized to be located

1 in a specific place under a state or federal law that preempts the requirement of a
2 conditional use permit for that use.

3 (g) Other uses identified by the department by rule.

4 (2) The department may promulgate rules imposing additional limits on the
5 permitted uses that may be allowed in a farmland preservation zoning district in
6 order for a farmland preservation zoning ordinance to comply with s. 91.42.

7 **91.46 Conditional uses. (1) GENERAL.** A farmland preservation zoning
8 ordinance does not comply with s. 91.42 if the farmland preservation zoning
9 ordinance allows as a conditional use in a farmland preservation zoning district a
10 land use other than the following land uses:

11 (a) Agricultural uses.

12 (b) Accessory uses.

13 (c) Agriculture-related uses.

14 (d) Nonfarm residences that qualify under sub. (2) or that meet more restrictive
15 standards in the farmland preservation zoning ordinance.

16 (e) Nonfarm residential clusters that qualify under sub. (3) or that meet more
17 restrictive standards in the farmland preservation zoning ordinance.

18 (f) Transportation, communications, pipeline, electric transmission, utility, or
19 drainage uses that qualify under sub. (4).

20 (g) Governmental, institutional, religious, or nonprofit community uses, other
21 than uses covered by par. (f), that qualify under sub. (5).

22 (h) Nonmetallic mineral extraction that qualifies under sub. (6).

23 (i) Oil and gas exploration or production that is licensed by the department of
24 natural resources under subch. II of ch. 295.

25 (j) Other uses allowed by the department by rule.